

DEC 15 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA DEL CARMEN RAMOS-
MERINO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-71522

Agency No. A70-945-934

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005^{**}

Before: GOODWIN, TASHIMA and FISHER, Circuit Judges.

Maria del Carmen Ramos-Merino, a native and citizen of El Salvador,
petitions for review of an order of the Board of Immigration Appeals (“BIA”)

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

dismissing her appeal from an immigration judge's ("IJ") order denying her motion to reopen removal proceedings conducted in absentia. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review the denial of a motion to reopen for abuse of discretion, *see INS v. Doherty*, 502 U.S. 314, 323 (1992), and we deny the petition for review.

An alien who is ordered removed *in absentia* may have the removal order rescinded upon a motion to reopen if the failure to appear was caused by "exceptional circumstances." 8 U.S.C. § 1229a(b)(5)(C)(i). The BIA did not abuse its discretion when it denied Ramos-Merino's motion to reopen because her excuse that she forgot the time and date of her hearing due to child care and business concerns does not qualify as an exceptional circumstance. *See Singh v. INS*, 213 F.3d 1050, 1052 (9th Cir. 2000). Further, Ramos-Merino did not establish eligibility for relief from removal at the time she failed to appear for her hearing. *See Cano-Merida v. INS*, 311 F.3d 960, 965-66 (9th Cir. 2002).

PETITION FOR REVIEW DENIED.